



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

IN REPLY REFER TO:
LB/PR
4200
11 MAY 07

From: Commandant of the Marine Corps

Subj: ASSISTED ACQUISITIONS USING ECONOMY ACT AND NON-ECONOMY
ACT ORDERS PLACED WITH AGENCIES OUTSIDE THE MARINE CORPS;
DIRECT ACQUISITIONS OF SUPPLIES AND SERVICES

Ref: (a) HQMC LB/PR memo of 6 Apr 05 "Proper Use of Non-Department of
Defense (DoD) Contracts and Other Matters" w/encl (1)
(b) MARADMIN 025/07 of 19 Jan 07 "Use of Non-Economy Act Orders"

Encl: (1) OASN(FM&C) memo of 31 Jan 07 "Non-Economy Act Orders with
Non-DoD Agencies" w/encl (1)
(2) OASN(FM&C) memo of 30 Mar 07 "Advance Payments to Non-DoD
Federal Agencies for Interagency Acquisitions"
(3) Revised MAPS Subpart 17.5, Appendix L and Appendix M

1. Various reviews by the Department of Defense (DoD) Inspector General and the Government Accountability Office continue to find that the DoD has encountered serious acquisition and fiscal problems using contracts awarded by Non-DoD Agencies. As a consequence, the Department of the Navy (DON) has issued revised and clarifying policy in enclosures (1) and (2) to address these acquisition and funding issues. This DON guidance is further implemented in the Marine Corps by the issuance of this letter and enclosure (3). References (a) and (b) are superseded by this policy.

2. An "Economy Act Order" means orders involving funds transfers using the authority of the Economy Act. A "Non-Economy Act Order" means orders involving funds transfers using the authority of the General Services Administration (GSA) Acquisition Services Fund or a Non-DoD Agency Franchise Fund.

3. To summarize, the following problems have been identified involving the manner in which the DoD transfers funds to other agencies.

a. Acquisition Issues

- (1) Lack of market research by both DoD and Non-DoD activities
- (2) Scope of Work often unclear as to what is being purchased
- (3) Competition not always used
- (4) Fair and reasonable prices not supported
- (5) Lack of appropriate contract administration, e.g., lack of Contracting Officer Representative assignments, and lack of Quality Assurance Surveillance Plans

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b. Funding Issues

- (1) Use of wrong type and year of funds
- (2) Improper use of expired funds via "banking of funds"
- (3) Lack of accountability of funds
- (4) Unauthorized advance payments
- (5) Numerous potential violations of Antideficiency Act
- (6) Violation of the "bona fide needs" rule
- (7) Excess funds not deobligated

4. This revised policy provides for a coordinated approach among requirements generators, comptrollers, contracting officers, and legal counsel to identify the most efficient means of satisfying a requirement. Without this coordinated effort, it will be impossible for the Marine Corps to efficiently and effectively acquire its requirements, conserve its limited financial resources, and comply with applicable laws and regulations.

5. Timely acquisition planning and market research is required to justify a requirement and, where appropriate, provide sufficient rationale for the transfer of funds outside of the Marine Corps. The transfer of funds should not be the default position of the Marine Corps. Instead, we should make every effort to satisfy the requirement in-house and, in the process, avoid payment of unnecessary fees. The Marine Corps can only achieve this objective if requirements generators identify their needs and initiate the acquisition and coordination, well in advance, with the comptroller, contracting officer, and legal counsel.


6. Comptrollers must ensure that proper fiscal controls are applied to the funds they have been allocated. Among other things this includes certifying that the appropriate funding is available in terms of purpose, time, and amount. Attention must be given to the limitation on the authority to make advance payments, as described in enclosure (2).


7. Enclosure (3) provides a new Determinations and Findings (D&F) structure that outlines the rationale or business case required to support a determination to transfer funds, whether under the Economy Act or for Non-Economy Act Orders. Although the guidance found in enclosures (1) and (2) articulate the roles and responsibilities for all involved in the Non-Economy Act Order process, these procedures also satisfy and will be used for Economy Act Orders within the Marine Corps.

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8. Enclosure (3) provides new guidance on the approval authority levels for Economy Act and Non-Economy Act Orders depending on the nature of and the dollar amount of the transfer. Enclosure (3) contains a new requirement for the contracting officer to report at the end of each fiscal year all Economy Act Orders approved between the micro-purchase threshold (currently \$2,500 for services) and \$5,000,000, and all Non-Economy Act Orders approved between the Simplified Acquisition Threshold (SAT) (currently \$100,000) and \$5,000,000. Where several contracting officers may have provided approvals at a particular location, those actions will be consolidated and reported by the Chief of the Contracting Office (CCO). Approval requirements for Non-Economy Act Orders under the SAT will be determined locally by the comptrollers. Finally, enclosure (3) also provides documentation requirements for direct acquisitions.

9. Please ensure widest dissemination of this guidance. Headquarters Marine Corps points of contact in this matter are: Mr. Larry Rice for contracting at (703)695-6950 x2556 or e-mail at lawrence.rice@usmc.mil, and Ms. Shari Ritter for fiscal at (703) 614-4500 or e-mail at shari.ritter@usmc.mil.


R. F. SWEENEY
Assistant Deputy Commandant
Installations and Logistics
(Contracts)


CHARLES E. COOK III
Assistant Deputy Commandant
Programs and Resources
(Fiscal)

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JAN 31 2007

MEMORANDUM FOR DISTRIBUTION

Subj: NON-ECONOMY ACT ORDERS WITH NON-DOD AGENCIES

Ref: (a) USD(C) memo of 16 Oct 2006
(b) OASN(FM&C) memo of 4 May 2006 (superseded)
(c) DOD FMR, Volume 4, Chapter 5

Encl: (1) Non-Economy Act Order Financial Management Guidance
(2) ~~Advance Payments Under Non-DoD Contracts~~
OASN(FM&C) memo of 30 Mar 2007 superseded Encl (2)

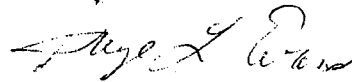
Recent Department of Defense (DoD) Inspector General reviews on the use of non-DoD contracting and the impact to fiscal management has resulted in the review of business processes within the DoD. As a result of the increased interest in this area, the Under Secretary of Defense (Comptroller) (USD(C)) formulated a team of representatives from both the acquisition and financial management communities from each military department. This memorandum promulgates financial management policy and procedures, derived from the team's recommendations and provided in reference (a), for Non-Economy Act orders and supersedes DON guidance provided in reference (b). These procedures should be given wide dissemination and are effective upon the date of this memorandum.

Advance payments to non-DoD agencies have been a particular focus of the USD(C) review. This is a particular area that requires strengthening that has not been addressed in detail in prior guidance memorandums. As defined by USD(C), advance payments are disbursements of money from the Department of Treasury accounts before performance has been certified by an authorized DoD receiving official. The principles and policy for advance payments are addressed in reference (c). If advance payments are authorized, commands are required to establish management procedures, to include pre-approval (in writing), reporting, aging, and liquidation of advance payments. Based on initial discussions with the Defense Finance and Accounting Service (DFAS), they do not have standard operating procedures to address the aforementioned requirements within accounting systems used by the DON. We will continue to work with appropriate organizations to pursue longer term solutions, however, in the interim, standards outlined in enclosure (2) should be implemented immediately.

Enclosure (1)

Subj: NON-ECONOMY ACT ORDERS WITH NON-DOD AGENCY

Addressees are to provide by 20 February 2007 notification that command procedures have been implemented in accordance with this memo. This letter can be accessed on <https://pbis.nmci.navy.mil/policy> for your convenience. Points of contact for this matter are Ms. Betty Talbert, (703) 692-4809, email elizabeth.talbert@navy.mil or Ms. Pam Balla, (703) 695-5816, email pamela.balla@navy.mil.



Gaye L. Evans
Director
Budget Policy and Procedures Division
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Non-Economy Act Order Financial Management Guidance

A. **Purpose.** Prescribe policy and procedures applicable to Department of Defense (DoD) procurement of goods or services from Non-DoD agencies under statutory authorities other than the Economy Act.

B. **Overview.** Non-Economy Act orders are for intra-governmental support, where a DoD activity needing goods and services (requesting DoD agency/customer) obtains them from a Non-DoD agency (assisting/servicing agency/performer). Specific statutory authority is required to place an order with a Non-DoD agency for goods or services, and to pay the associated cost. If specific statutory authority does not exist, the default will be the Economy Act, 31 U.S.C. 1535 which is discussed in volume 11A, Chapter 3 of the "DoD Financial Management Regulations" ("DoDFMR"). The more commonly used Non-Economy Act authorities include, but are not limited to, the following.

- **Acquisition Services Fund.** The Acquisition Service Fund was established by the General Service Administration Modernization Act. The Act merged the General Supply Fund and the Information Technology Fund to carry out functions related to the uses of the Acquisition Services Fund, including any functions previously carried out by the Federal Supply Service and the Federal Technology Service managed by the General Service Administration.
- **Franchise Funds.** Franchise Funds were first established by P.L. 103-356, Title IV, Sec 403 to provide common administrative support services on a competitive and fee basis. Franchise fund programs originated within the Environmental Protection Agency (EPA), Department of Commerce, Department of Veterans Affairs (VA), Department of Health and Human Services (HHS), Department of Interior, and Department of the Treasury.

C. **Initiating a Non Economy Act Order.** Non-Economy Act orders in excess of the simplified acquisition threshold shall comply with Federal Acquisition Regulation (FAR) Part 7, "Acquisition Planning," and Department of the Navy (DON) procedures for "Proper Use of Non-DoD Contracts."

1. **Justification.** Non-Economy Act orders may be placed with another agency for goods or services if:

- Proper funds are available;
- The Non-Economy Act order does not conflict with another agency's designated responsibilities (e.g., real property lease agreements with GSA);
- The requesting agency or unit determines the order is in the best interest of the Department; and
- The performing agency is able and authorized to provide the ordered goods or services.

Non-Economy Act Order Financial Management Guidance

2. Order. Non-Economy Act orders for work and services outside the DoD shall be executed by issuance of a DD Form 448, "Military Interdepartmental Purchase Request (MIPR)" and accepted using DD Form 448-2, "Acceptance of MIPR." If an alternative execution document is used, it must provide information constant with the MIPR to include the purchase request number and the Activity Address Code (DODAAC). A Non-Economy Act order shall comply with the documentation standards in Volume 11A, Chapter 1 of the "DoDFMR," and supported with the items identified in Figure 2 of this enclosure. Non-Economy Act orders must include:

- A firm, clear, specific, and complete description of the goods or services ordered. The use of generic descriptions is not acceptable;
- Specific performance or delivery requirements;
- A proper fund citation;
- Payment terms and conditions (*e.g.*, direct cite or reimbursement, and provisions of advanced payments;
- Specific Non-Economy Act statutory authority such as those referenced in paragraph B above; and
- DoD Activity Address Code (DODAAC).

3. Best Interest Determination. Each requirement must be evaluated in accordance with DON procedures to ensure that Non-Economy Act orders are in the best interest of the DON. Factors to consider include:

- Satisfying the requirements;
- Schedule, performance, and delivery requirements;
- Cost effectiveness, taking into account the discounts and fees; and
- Contract administration, to include oversight.

4. Specific, Definite and Certain. For Non-Economy Act orders in excess of the simplified acquisition threshold, the requesting official must provide:

- Evidence of market research and acquisition planning.
- A statement of work that is specific, definite, and certain both as to the work encompassed by the order and the terms of the order itself.
- Unique terms, conditions, and requirements to comply with applicable DoD-unique statutes, regulations, directives and other requirements.

Non-Economy Act Order Financial Management Guidance

5. **Contracting Officer Review.** All Non-Economy Act orders greater than \$500,000 shall be reviewed by a DON warranted contracting officer prior to forwarding the order to the funds certifier or issuing the MIPR to the Non-DoD activity. In addition to the review of the contracting officer, the requesting official shall further review the acquisition package to ensure compliance with the FAR part 7. Commands are encouraged to have Non-Economy Act orders greater than the simplified acquisition threshold, currently \$100,000, be reviewed by a warranted contracting officer. However, at a minimum, Non-Economy Act orders greater than the simplified acquisition threshold but less than \$500,000 should be reviewed by a contract specialist to ensure compliance with the Non-Economy Act Acquisition Package Checklist. (Figure 1 of the enclosure).

6. **Certification of Funds.** Non-Economy Act orders are subject to the same fiscal limitations that are contained within the appropriation from which they are funded. Because the performing entity may not be aware of all the appropriation limitations, the DON certifying official must certify that the funds cited on the order are available, meet time limitations, and are for the purpose designated by the appropriation.

7. **Bona Fide Need.** Non-Economy Act orders citing an annual or multiyear appropriation must serve a bona fide need arising, or existing, in the fiscal year (or years) for which the appropriation is available for new obligations.

D. Fiscal Policy.

1. **Obligation.** The provisions of 31 U.S.C. 1501 govern the recording of the obligation. An amount shall be recorded as an obligation only when supported by documentary evidence of an order required by law to be placed with an agency or upon meeting all the following criteria:

- Binding agreement (funding vehicle) between an agency and another person (including an agency);
- Agreement is in writing;
- For a purpose authorized by law;
- Serves a bona fide need arising, or existing, in the fiscal year or years for which the appropriations is available for obligation;
- Executed before the end of the period of availability for new obligation of the appropriation or fund used; and
- Provides for specific goods to be delivered, real property to be bought or leased, or specific services to be supplied.

Non-Economy Act Order Financial Management Guidance

2. Deobligation. Funding under Non-Economy Act orders shall be deobligated as outlined below.

a. Goods. Funds provided to a performing agency for ordered goods where the funds period of availability thereafter has expired shall be deobligated and returned by the performing agency unless the request for goods was made during the period of availability of the funds **and** the item(s) could not be delivered within the funds period of availability solely because of delivery, production or manufacturing lead time, or unforeseen delays that are out of the control and not previously contemplated by the contracting parties at the time of contracting. Thus, where materials cannot be obtained in the same fiscal year in which they are needed and contracted for, provisions for delivery in the subsequent fiscal year do not violate the bona fide need rule as long as the time intervening between contracting and delivery is not excessive and the procurement is not for standard commercial off the shelf (COTS) items readily available from other sources. Delivery or delay issues should be well documented, thereby justifying the bona fide need, and filed with other documents associated with the transaction. The delivery of goods may not be specified to occur in the year subsequent to funds availability.

b. Severable Services. An agreement for severable services that are continuing and recurring in nature and provide the Department a benefit each time the service is performed (*e.g.*, maintenance and repair services, scientific, engineering, and technical services), is based on statutory authority other than the Economy Act, 10 U.S.C. 2410a permits the performance of severable services to begin in one fiscal year and end in the next provided the period of performance does not exceed one year. Thus, the performance of severable services may begin during the funding period of availability and may not exceed one year. Therefore, annual appropriations provided to a performing agency that have expired shall be deobligated unless the performance of the services requested began during the funding period of availability and the period of performance does not exceed one year. The annual appropriation from the earlier fiscal year may be used to fund the entire cost of the one-year period of performance; however, an annual appropriations may not be used to enter into a severable services agreement where the period of performance for services requested is entirely in the following fiscal year. In no instance may the period of performance extend beyond September 30 of the subsequent year of services funded with annual appropriations. In summary, contracts must be awarded on or before 30 September citing the current fiscal year; **and** the period of performance must requested to commence on or before 30 September of that same fiscal year; **and** may not exceed 12 months from the performance start date.

c. Non-Severable Services. Non-severable services contracts must be funded entirely with appropriations available for new obligations at the time the contract is awarded, and the period of performance may extend across fiscal years. Funds provided to a performing agency that become excess shall be deobligated as identified.

d. Excess or Expired Funds. Activities shall reconcile all obligations and remaining funds available for orders. The purpose of this reconciliation is to ensure the proper use of funds and to identify and coordinate the return of expired or excess funds. Excess or expired funds must be returned by the performing agency and deobligated by the requesting agency to the extent that the performing agency or unit filling the order has not, (1) provided the

Non-Economy Act Order Financial Management Guidance

goods or services (or incurred actual expenses in providing the goods or services), or (2) entered into a contract with another entity to provide the requested goods or services. Expired funds shall not be available for new obligations.

3. Prohibitions. Non-Economy Act orders may not be used to violate provisions of the law, nor may they be used to circumvent conditions and limitations imposed on the use of funds to include extending the period of availability of the cited funds.

4. Funding Document Requirements. Effective immediately, the following guidelines must be followed relative to future interagency agreement funding documents:

- For all future interagency agreement funding documents for severable services, the following statement must be included on the funding document: "These funds are available for services for a period not to exceed one year from the date of contract award of this order (with contract award occurring before 30 September of any given year). All unobligated funds shall be returned to the ordering activity no later than one year after the contract award of the order or upon completion of the orders, which ever is earlier."
- For all future interagency funding documents for goods, the following statement must be included on the funding document: "I certify that the goods acquired under this agreement are legitimate, specific requirements representing a bona fide need of the fiscal year in which these funds are obligated."

E. Non-Economy Act Follow Up Procedures.

1. Non-Economy Act Order Oversight. The requesting official must establish quality surveillance plans for Non-Economy Act orders in excess of the simplified acquisition threshold to facilitate the oversight of the goods provided or services performed by the performing agency. The plan should include:

- a. Contract administration oversight in accordance with the surveillance plan;
- b. Process for receipt and review of receiving reports and invoices from the performing agency;
- c. Reconciliation of receiving reports and invoices; and
- d. Requirements for documenting acceptance of the goods received or services performed.

2. Monitor Fund Status. The requesting official must monitor fund status to:

- a. Monitor balances with the performing agency;

Non-Economy Act Order Financial Management Guidance

- b. Conduct tri-annual reviews of Non-Economy Act orders in accordance with the Financial Management Regulation, Volume 3, Chapter 8, Section 0804, "Tri-Annual Review of Commitments and Obligations" and all applicable DON guidance;
- c. Confirm open balances with the performing agency;
- d. Coordinate the return of funds from the Non-DoD performing agency in accordance with paragraph D2 above; and
- e. Coordinate with the accounting office to ensure timely deobligation of funds.

3. Payment Procedures. Payment shall be made promptly upon the written request (or billing) of the performing agency. Under specific conditions, payment may be made in advance or upon delivery of the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the performing agency.

a. The requesting official must be cognizant of the performing agency's payment method. Should the performing agency elect to receive advances or conduct advance billing prior to providing goods or services, the requesting official must comply with the requirements related to advances of public money outlined in Volume 4, Chapter 5 of the "DoD Financial Management Regulation" which implements the general prohibition of advance payments in Title 31, U.S.C. Section 3324 and Title 10, U.S.C. Section 2307. When the conditions under which the advance was made are satisfied, the specific appropriation or law authorizing the advance must be cited on the order and any unused amounts of the advance shall be collected from the performing agency immediately and returned to the fund from which originally made. (See enclosure (2) for more specifics).

b. Payments made for services rendered or goods furnished may be credited to the appropriation or fund of the agency performing the reimbursable work.

4. Non Economy Act Order Close Out. All Non-Economy Act orders shall be reviewed by the requesting official to determine if they are complete. Completed orders shall be fiscally closed out. The requesting official shall reconcile funds and coordinate the return of excess or expired funds held by the performing agency. This review will include:

- a. Identify and determine if there are outstanding invoices;
- b. Identify and determine existence of excess or expired funds;
- c. Coordinate the return of funds from the Non-DoD performing agency in accordance with paragraph D2 above; and
- d. Coordinate with the accounting office to ensure the deobligation of funds.

Non-Economy Act Order Financial Management Guidance

NON-ECONOMY ACT ACQUISITION PACKAGE CHECKLIST

1. Documented evidence of market research and acquisition planning performed.
2. Package includes a specific, definite, and concise statement of work documenting a bona fide need in the fiscal year that the funds are available for new obligations.
3. Package includes specific performance and/or delivery requirements.
4. Package identifies the statutory authority permitting the performing agency to support the DON for the goods/services required.
5. Package includes the purchase request number and the Activity Address Code (DODAAC).
6. Package includes written justification for the Non-Economy Act order in accordance with DFARS part 217.78 and the DON procedures.
7. Package documents review of fees/surcharges/contract administration/discounts to ensure the cost is reasonable and consistent with task to be accomplished by performing agency.
8. Package includes specific statutory authority authorizing advance payment or billing.
9. Package documents evidence that competition requirements were followed in accordance with DFARS.
10. Order identifies DON unique terms & conditions to the performing agency.
11. Order identifies unique reporting requirements not otherwise specified to the performing agency.

Figure 1

Non-Economy Act Order Financial Management Guidance

REQUESTING OFFICIAL RESPONSIBILITIES

1. Market Research
2. Acquisition Planning
3. Independent Government Cost Estimate (IGCE)
4. Statement of Work (SOW) or Performance Work Statement (PSW) to include evaluation criteria.
5. Ensure receipt and compliance of MIPR acceptance.
6. Assist in Technical Evaluation
7. Quality Assurance Plan
 - a. COR, COTR (Receiving Reports/Invoices - Inspection & Acceptance)
 - b. CDRL Procedural/Required Reports/Deliverables Report/Contract Performance
 - c. Property/Equipment Management
 - d. Perform Contract Oversight
8. Funds Management/Record Keeping
 - a. Draw Down
 - b. Contract Reconciliation
 - c. Initiate Deobligation
 - e. Oversight of Billing/Reporting
9. Update all Points of Contact (POC) as necessary throughout acquisition

Figure 2



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(FINANCIAL MANAGEMENT AND COMPTROLLER)
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

MAR 30 2007

MEMORANDUM FOR DISTRIBUTION

Subj: ADVANCE PAYMENTS TO NON-DEPARTMENT OF DEFENSE (DOD) FEDERAL AGENCIES FOR INTERAGENCY ACQUISITIONS

Ref: (a) OASN(FM&C) memo of 31 January 2007

The purpose of this memorandum is to provide an update to the comprehensive policy guidance provided by reference (a). Subsequent to the promulgation of reference (a), the Under Secretary of Defense (Comptroller) (USD(C)) released additional guidance associated with the subject matter. Therefore, guidance contained in enclosure (2) of reference (a) is hereby rescinded. The new policy is provided below:

Unless specifically authorized by law, legislative action or Presidential authorization, advance payments to non-DoD federal entities are not allowed. DoD policy requires express language in DoD legislation specifically authorizing the Department to make advance payments to non-DoD federal entities. DoD legislation does not currently provide authority to provide advance payments.

- Commands must clearly note on funding documents that advance payments are not authorized. Should the legislative status for the DON change regarding advance payments, the specific law or Presidential authorization allowing the advance must be cited on the document.
- All existing advance payments currently retained by a non-DoD entity must be returned. Therefore, if an advance payment has been provided and the DON has not yet received the goods or services requested, the residual amount of any advance payment must be recouped. The non-DoD entity may then bill for the remainder of the effort when the goods or services are provided to the DON.
- To facilitate efforts with non-DoD entities, while ensuring compliance with all other applicable laws and policies, commands should consider financing efforts such as planning and design with one funding request and the subsequent effort with a separate funding request. This practice will enable the non-DoD organization to collect reimbursement for work as it is completed.


By copy of this memorandum, assistance is requested of DFAS to help implement this policy. Assistance is required in both the collection of previously provided advance payments, which will be identified by DON commands, as well as the implementation of an accounting

Enclosure (2)

Subj: ADVANCE PAYMENTS TO NON-DEPARTMENT OF DEFENSE (DOD) FEDERAL
AGENCIES FOR INTERAGENCY ACQUISITIONS

process to ensure that no advance payments are processed for DON funds, unless in compliance with this memorandum.

Questions from Budget Submitting Offices should be addressed to Ms. Betty Talbert, (703) 692-4809, email elizabeth.talbert@navy.mil or Ms. Pam Balla, (703) 695-5816, email pamela.balla@navy.mil. Questions from all other subordinate commands should be addressed through the chain of command.


S. D. BOZIN
Rear Admiral, U.S. Navy
Director, Office of Budget

Subj: ADVANCE PAYMENTS TO NON-DEPARTMENT OF DEFENSE (DOD) FEDERAL
AGENCIES FOR INTERAGENCY ACQUISITIONS

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MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Part 17—Special Contracting Methods

SUBPART 17.5—INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT AND NON-ECONOMY ACT PLACED WITH AGENCIES OUTSIDE THE MARINE CORPS; DIRECT ACQUISITIONS OF SUPPLIES AND SERVICES

17.501 Definitions

As used in this subpart—

“Assisting Agency” means the department/activity outside of the Marine Corps with contracting responsibility for a Marine Corps requirement.

“Assisted Acquisition” means a contract awarded or a task or delivery order placed on behalf of the Marine Corps by an official of the United States outside of the Marine Corps.

“Direct Acquisition” means a task or delivery order placed by a Marine Corps Contracting Officer/Ordering Officer against a contract vehicle established outside of the Department of Defense (DoD).

“DoD Agency” means Army, Navy, Air Force and DoD Agencies such as the Defense Logistics Agency.

“Economy Act Order” means orders involving funds transfers using the authority of the Economy Act.

“Interagency Acquisition” means a procedure by which an agency needing supplies or services (the requiring agency) obtains them from another agency (the assisting agency).

“Micro-Purchase Threshold” currently means \$3,000, except it means—
(1) \$2,500 for acquisitions of services subject to the Service Contract Act;
(2) \$2,000 for acquisitions of construction subject to the Davis-Bacon Act; and
(3) As otherwise specified in FAR 2.101.

“Non-DoD Agency” means any Federal agency outside of the DoD.

“Non-Economy Act Order” means orders involving funds transfers using the authority of the General Services Administration (GSA) Acquisition Services Fund or Franchise Funds.

“Non-Marine Corps contracts” means contracts awarded by an official outside the Marine Corps. These include optional use Federal Supply Schedules, Blanket Purchase Agreements issued against Federal Supply Schedules, and other contracts/schedules awarded outside the Marine Corps.

“Requiring Individual” means the individual in the organization responsible for identifying and fulfilling the requirement.

“Requiring Activity Supporting Contracting Office” means the Marine Corps contracting activity normally providing contracting support to the requiring organization.

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Part 17—Special Contracting Methods

“Simplified Acquisition Threshold (SAT)” currently means \$100,000 except as further defined in FAR 2.101.

17.502-100 General

(a) The Economy Act, 31 United States Code 1535, provides tremendous flexibility in the execution of our mission by allowing the Marine Corps to legally transfer funds outside the Marine Corps to other Federal agencies. The Act authorizes Federal agencies to obtain supplies or services via interagency acquisitions that are determined to be in the best interest of the Government when the supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

(b) FAR 17.5, DFARS 217.5, and NMCARS 5217.5 provide overarching guidance on the implementation of the Economy Act at the Federal, Department of Defense (DoD), and Department of the Navy (DON) level. Within the Marine Corps, the ADC, I&L (Contracts) and COMMARCORSYSCOM have been delegated the authority to approve the Determinations and Findings (D&Fs) required under this section, and as appropriate, to delegate approval authority to others.

(c) Section 854 of the FY2005 National Defense Authorization Act (NDAA), Section 813 of the FY2006 NDAA, DFARS 217.78, and Office of the Assistant Secretary of the Navy (Financial Management and Comptroller) (OASN(FM&C)) memoranda of 31 January 2007 and 30 March 2007 require additional reviews, approvals, and reporting for all interagency acquisitions. This guidance applies to acquisitions using the authority of the Economy Act or Non-Economy Act. MAPS Subpart 17.5 implements these additional requirements Marine Corps wide.

17.503 Determinations and findings (D&F) requirements

The following policy applies to all activities that use Non-Marine Corps contracts or resources to satisfy their requirements. Appendix L provides the outline and information required to comply with the law, Office of the Secretary of Defense (Comptroller) and the Assistant Secretary of the Navy (FM&C) policy.

(a) Economy Act Orders.

(1) Assisted acquisitions made through DoD agencies greater than the micro-purchase threshold and less than or equal to \$5M. To comply with the Economy Act, 31 United States Code 1535, the contracting officer, with the assistance of the requiring individual, comptroller, and legal counsel, will prepare and approve the D&F before any funds are transferred outside the Marine Corps.

(2) Assisted acquisitions made through DoD agencies greater than \$5M. To comply with the Economy Act, 31 United States Code 1535, the contracting officer, with the assistance of the requiring individual, comptroller, and legal counsel, will prepare the D&F and forward it to ADC, I&L (Contracts) for approval before any funds are transferred outside the Marine Corps.

(3) Assisted acquisitions (other than through franchise funds) made through Non-DoD agencies greater than the micro-purchase threshold. To comply with the Economy Act, 31 United States Code 1535, the Contracting Officer, with the assistance of the requiring individual,

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Part 17—Special Contracting Methods

comptroller, and legal counsel, will prepare the D&F and forward it to ADC, I&L (Contracts) for approval before any funds are transferred outside the Marine Corps.

(b) Non-Economy Act Orders.

(1) Assisted acquisitions made through Non-DoD agencies less than the Simplified Acquisition Threshold (SAT) (currently \$100K). The approval process and documentation requirements are as prescribed by local comptroller in accordance with sound financial management practices.

(2) Assisted acquisitions made through Non-DoD agencies greater than the SAT and less than or equal to \$5M. To comply with Section 854 of the FY2005 NDAA and Section 813 of the FY2006 NDAA the contracting officer, with the assistance of the requiring individual, comptroller, and legal counsel will prepare and approve the D&F before any funds are transferred outside the Marine Corps.

(3) Assisted acquisitions made through Non-DoD agencies greater than \$5M. To comply with Section 854 of the FY2005 NDAA and Section 813 of the FY2006 NDAA the contracting officer, with the assistance of the requiring individual, comptroller, and legal counsel will prepare the D&F and forward it to ADC, I&L (Contracts) for approval before any funds are transferred outside the Marine Corps.

(c) The Requiring Individual who generates requirements for execution is responsible for providing the needed information to the comptroller, contracting office, and legal counsel so that the requisite documentation can be acted upon. As a minimum, the Requiring Individual must provide the needed information in a format consistent with Appendix L. In addition, the Requiring Individual must establish procedures and controls that ensure all required Military Interdepartmental Purchase Request documents and source documentation, including support for the receipt of ordered goods and services and the validity of related disbursements, are properly maintained in a single file location. The existence of an interservice/intergovernmental support agreement, memorandum of agreement or memorandum of understanding under DoD Instruction 4000.19 does not negate the requirement for a D&F.

(d) The cognizant comptrollers will not release funds for interagency procurements until the required documentation has been completed. The comptroller will also take necessary actions to ensure appropriate tracking of funding transferred outside the Marine Corps to ensure a proper audit trail.

(e) Examples where these procedures do not apply:

(1) Supplies and services procured under mandatory supply sources as defined in FAR Part 8 (e.g., purchases on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled—AbilityOne) or mandatory sources provided for under other specific authority.

(2) Transfers by a tenant activity to a host activity for the reimbursement of utilities (e.g., water, sewer, telephone).

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(3) Mobile (cellular) phone services and mobile data services (i.e., BlackBerry® and like devices) pursuant to ASN(RD&A) policy memo of 7 March 2005.

(4) Architect-engineer, construction and facilities support contracts performed by NAVFACENGCOM pursuant to NMCARS 5201.601-90(a)(1) (to include the Naval Construction Force/Seabees).

(5) Construction procured from the Army in Japan and Okinawa pursuant to DoDD 4270.5.

(f) Reporting Requirement. The Chiefs of the Contracting Offices (CCO) will report all assisted Economy Act Orders and Non-Economy Act Orders that they, and all other contracting officers under their supervision, have approved during the previous fiscal year. To facilitate preparation of the report and for ease of audit, CCOs shall maintain at a single location within their offices a file of all Economy Act and Non-Economy Act D&Fs that their offices have approved. This report will be sent to ADC, I&L (Contracts) no later than 15 November after the close of the fiscal year. Reports will be provided on an Excel Spreadsheet. See paragraph 5 of the Instructions for Appendix L. (ASN(RD&A) policy memo of 01 December 2006)

17.503-100 Direct acquisitions of supplies and services greater than the SAT

Pursuant to paragraph 5 of the DON Guidelines for Proper Use of Non-DoD Contracts (14 December 2004), a direct acquisition includes a task or delivery order placed by a Marine Corps Contracting Officer/Ordering Officer against a contract vehicle established outside of the DoD (e.g., Federal civilian agencies to include their franchise funds). Direct acquisitions include optional use Federal Supply Schedules, Blanket Purchase Agreements issued against Federal Supply Schedules, and other contracts/schedules awarded outside the Marine Corps. To comply with Section 854 of the FY2005 NDAA, and Section 813 of the FY2006 NDAA as implemented by OASN(FM&C) memoranda of 31 January 2007 and 30 March 2007, approvals for direct acquisitions will be granted concurrently with the Business Clearance Memorandum (BCM) and will include the information outlined in Appendix M. Approval authority for direct acquisitions is the business clearance approval official.

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

Sample D&F for Assisted Acquisitions Made Through DoD Agencies (e.g., Army, Navy, Air Force, DLA, DAPS) and Non-DoD Agencies (e.g., Federal Civilian Agencies to include their Franchise Funds - GSA, Agriculture, Commerce, Energy, Treasury)

(Use Contracting Office Letterhead)

Control No. In Right Header (e.g., MCI-East 10001)

Choose (Economy Act Order) or (Non-Economy Act Order)

Determination and Findings

For Economy Act Order Authority Cite the following:

31 U.S.C. 1535; Sec 854 FY05 NDAA; Sec 813 FY06 NDAA; FAR 17.5; DFARS 217.5, 217.78; MAPS 17.503; DASN(ACQ) memo of 1 Dec 06 "Acquisition of Services – MOPAS 2"; OASN(FM&C) memo of 30 Mar 07 "Advance Payments to Non-DoD Federal Agencies for Interagency Acquisitions"

For Non-Economy Act Order Authority Cite the following:

Sec 854 FY05 NDAA; Sec 813 FY06 NDAA; DFARS 217.78;
USD(C) memo of 16 Oct 06 "Non-Economy Act Orders";
OASN(FM&C) memo of 31 Jan 07 "Non-Economy Act Orders with Non-DoD Agencies";
DASN(ACQ) memo of 1 Dec 06 "Acquisition of Services – MOPAS 2"; OASN(FM&C) memo of 30 Mar 07
"Advance Payments to Non-DoD Federal Agencies for Interagency Acquisitions"

FINDINGS

1. Requiring Office. Provide the name of the requiring office, including the Requiring Individual in the following format.

- a. Name of Activity:
- b. Activity Mailing Address:
- c. DoD Activity Address Code (DoDAAC) for requiring office:
- d. Requiring Individual name, telephone, and e-mail address:

2. Assisting Agency. Provide the name of the Government Agency that will receive the funds and provide or procure the required goods or services. Provide the name of the assisting agency in the following format.

- a. Name of Agency:
- b. Address of Agency:
- c. Name of Agency Point of Contact (POC) or Contracting Officer:
- d. Telephone and e-mail address of POC or Contracting Officer:

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

3. Service Provider. Describe how the Assisting Agency will perform the requirement, e.g., by means of a contract or by use of its own resources. For services acquisitions, provide the following pursuant to Table 3 of ASN(RD&A) policy memo of 01 December 2006:

- a. Types and amounts (man hours) of services acquired.
- b. Type of contract vehicle (i.e., fixed price/cost-type/T&M).
- c. Whether or not the contract action was performance based.
- d. Extent of competition received in placing the action. Where practicable, include the number of offerors, contractor name, and contract number to be utilized.
- e. Whether the contractor is a large business, an educational or non-profit, a small business and type of small business (i.e., small business, small disadvantaged, woman-owned, HUB-zone, etc. (FAR Part 19)) or a required source of supply (FAR Part 8).

4. Non-Economy Act Order Authority. For Non-Economy Act Orders only, provide the statutory authority for the GSA Acquisition Services Fund or the Franchise Fund.

5. Description of the Requirement. Provide a description of the type of goods or services to be provided or procured. Details concerning the requirement will be explained in the following format.

a. The Requirement. The Requiring Individual is to provide a firm, clear, specific, and complete description of the goods or services to be ordered. The use of generic descriptions is not acceptable. In addition, attach a copy of the specification (for supplies) or Performance Work Statement (PWS) (for services). For services attach a copy of the Quality Assurance Surveillance Plan (QASP).

b. Acquisition Planning and Market Research. Provide documented evidence of the Acquisition Planning and Market Research that was conducted in accordance with FAR Part 7 and 10.

c. Cost Estimate. Provide an Independent Government Cost Estimate for the requirement and the basis for that estimate.

d. Performance or Delivery. Provide specific performance or delivery requirements, e.g., delivery dates, or for services include proposed period of performance.

e. Contracting Officer's Representative (COR). Identify the Government Official who will be the COR for the requirement who will oversee the performance and accept the services to be provided. The COR must be properly trained and appointment in writing by the Contracting Officer.

f. DoD-Unique Terms and Conditions. Provide any terms, conditions, and requirements to comply with DoD/DON-unique statutes, regulations, directives and other requirements, e.g., 10 U.S.C. 2410a - severable services; Berry Amendment.

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

6. Certification of Funding Data by Comptroller.

a. Provide a statement as to the funds to be used for the requirement to include Fiscal Year (FY), Type of Funds, and Dollar Amount, e.g., FY07, O&M,MC; PMC; RDT&E; and \$11.5M. A table will be used to describe a situation where more than one year or type of funds will be used to support the requirement. A sample table is provided below.

Fiscal Year	Type of Funds	Amount
2007	O&M,MC	\$12.2M
2008	O&M,MC	\$12.4M
2009	O&M,MC	\$12.7M

b. Certify that the funds cited on the order serve a bona fide need arising, or existing, in the fiscal year or years for which the appropriation is available for obligation.

c. Certify that the type of funding provided is appropriate for the goods or services being acquired.

d. Certify that funds will be deobligated as outlined in enclosure (1), paragraph D.2. of the OASN(FM&C) memo dated 31 January 2007.

e. If the General Services Administration (GSA) Acquisition Services Fund or a Franchise Fund is to be used, and advance payment is contemplated, cite the specific statutory authority that authorizes the Marine Corps to agree to the advance payment. See the OASN(FM&C) memo of 30 Mar 07 "Advance Payments to Non-Department of Defense Federal Agencies for Interagency Acquisitions".

7. Cost/Fees. Identify fees, if any, negotiated by the Marine Corps contracting officer that are to be charged by the Assisting Agency to process and administer the order. Include fee percentage and estimated dollars. If for more than one year, use the table format below.

Fiscal Year	Administrative Fee to Assisting Agency Percentage	Administrative Fee to Assisting Agency Dollar Amount
2007	2%	\$24.4K
2008	2%	\$24.8K
2009	2%	\$25.4K

8. Justification and Rationale for the Action. Explain why the use of an Economy Act Order or Non-Economy Act Order is in the best interest of the Marine Corps in terms of the following.

Address whether the Assisting Agency: (A) Will satisfy the requirement under an existing contract the Assisting Agency has in place to meet its own needs; (B) Has capabilities or expertise to enter into a contract for the requirement the Marine Corps does not have; and/or, (C) Has the capability to perform and will perform the requirement with its own resources.

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

Regardless of which rationale is used, address how the approach supports the following:

- a. Satisfying Marine Corps customer requirements;
- b. Cost effectiveness (taking into account discounts and fees);
- c. Delivery schedule;
- d. Non-availability of suitable contracts within the Marine Corps;
- e. Ease of contract administration and any other applicable considerations.

DETERMINATION

A. The use of an (Economy Act Order) or (Non-Economy Act Order) is in the best interest of the Government.

B. This requirement cannot be obtained as conveniently or economically by contracting directly with a private source.

C. DoD/DON unique terms and conditions were provided to the assisting agency and will be included in the contract award.

D. Funding is available and appropriate for the acquisition.

If the assisting agency will be contracting for the goods and services, choose at least one of the following and insert as paragraph E in the Determination section of the D&F:

(E.) The acquisition will appropriately be made under an existing contract of the Assisting Agency, entered into before placement of this **(choose)** Economy Act **(or)** Non-Economy Act Order, to meet its own requirements for the same or similar services. Goods or services being ordered are within the scope of the basic contract.

(F.) The Assisting Agency has capabilities or expertise to enter into a contract for this requirement that is not available within the Marine Corps.

(G.) The assisting agency is specifically authorized by law or regulation to purchase this requirement on behalf of other agencies.

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

APPROVALS

(Typed Name and Title to be included below all signatures)

Approved: (Signature) _____ Date _____
Requirements/Program Management Official

Approved: (Signature) _____ Date _____
Comptroller

Legally Sufficient: (Signature) _____ Date _____
CL Counsel

Approved: (Signature) _____ Date _____
Marine Corps Contracting Officer
() Check box if Note 1 applies.

Approved: (Signature) _____ Date _____
Assistant Deputy Commandant, I&L (Contracts)
() Check box if Note 1 applies.

The authorities below will not be involved in the approval process unless the dollar value exceeds \$50M (NMCARS 5217.7802)

Approved: (Signature) _____ Date _____
Deputy Assistant Secretary of the Navy (Acquisition
and Logistics Management)
(actions >\$50M)

Approved: (Signature) _____ Date _____
Assistant Secretary of the Navy (Research, Development
and Acquisition)
(actions >\$500M)

Note 1: Department of the Navy review and approval requirements for the Management and Oversight Process for the Acquisition of Services (MOPAS) are satisfied concurrently with the approval of this D&F. (NMCARS 5237.170-2(a) and (b))

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

INSTRUCTIONS FOR APPENDIX L

REFERENCES BASIC AUTHORITIES

- (a) Economy Act 31 USC 1535
- (b) Section 854 of the FY2005 NDAA
- (c) ASN(RD&A) Subj: Acquisition of Services of 1 Dec 06
- (d) ASN(FM&C) memo Subj: Non-Economy Act Orders with Non-DoD Agencies of 31 Jan 07 with enclosure (1)
- (e) ASN(FM&C) memo Subj: Administrative and Internal Controls for Non-Economy Act Interagency Agreements of 28 Feb 07
- (f) OASN(FM&C) memo of 30 Mar 07 "Advance Payments to Non-Department of Defense Federal Agencies for Interagency Acquisitions"
- (g) FAR 17.5 & DFARS 217.5

1. When working with this guidance, it is important to remember that unless authorized by law, transfers of funds between Federal agencies and instrumentalities are prohibited by law. See 31 U.S.C. § 1532.

a. Recognizing that there are occasions where it might be more advantageous for one Federal agency to make purchases for another, Congress enacted the Economy Act, 31 U.S.C. § 1535, reference (a), which permits one Federal agency to provide goods or services to another Federal agency, or to another account within the same agency, when the requirements of the Economy Act have been met. The Economy Act is an enabling piece of legislation and without it there would be no legal authority to transfer funds between Federal agencies.

b. "Non-Economy Act Orders" is a new term of art discussed in reference (d). Non-Economy Act Orders may be placed with a Federal agency that has the specific statutory authority to support other Federal agencies. Agencies like the General Services Administration (GSA) and the Department of Interior have been given the authority to support other Federal agencies through the Acquisition Services Fund in the case of the GSA and various Franchise Funds. A transfer of requirements and funds to one of these entities is technically not pursuant to the Economy Act, thus the term "Non-Economy Act Orders." The more commonly used Non-Economy Act authorities include, but are not limited to, the following:

(1) GSA Acquisition Services Fund. The Acquisition Service Fund was established by the General Services Administration Modernization Act that merged the General Supply Fund and the Information Technology Fund to carry out functions related to the uses of the Acquisition Services Fund including any functions previously carried out by the Federal Supply Service and the Federal Technology Service managed by General Services Administration.

(2) Franchise Funds. Generally, franchise funds are self-supporting business-like entities that provide support services common to Federal agencies. They operate on a reimbursable basis. Franchise Funds were first established by P.L. 103-356, Title IV, Sec 403 to provide common administrative support services on a competitive and fee basis. The pilots were to expire after 5 years, at the end of Fiscal Year 1999, but have been extended several

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

times. The following Federal agencies have, or have had, Franchise Funds. Statutory authority follows the fund type:

- (i) Department of Interior – GovWorks; 31 USC 501
- (ii) Department of the Treasury – FedSource; 31 USC 322
- (iii) Department of Health and Human Services (HHS) – Unified Financial Management System (UFMS) Program; 31 USC 501
- (iv) Department of Commerce – Office of Computer Services; 31 USC 501
- (v) Environmental Protection Agency (EPA); 31 USC 501
- (vi) Department of Veterans Affairs (VA); 38 USC 301
- (vii) Department of Homeland Security (DHS); 31 USC 501

(3) Those transfers made to Non-DoD agencies, but not to their respective Franchise Funds, must comply with the Economy Act, reference (a).

c. Economy Act and Non-Economy Act Orders have in common the requirement to prepare written justifications before funds may be transferred from one Federal agency to another. These justifications, the Determinations and Findings (D&F), must be completed before any funds can be transferred.

2. A coordinated approach among requirements generators, comptrollers, contracting officers, and legal counsel must occur to identify the most efficient means to satisfy a requirement while simultaneously satisfying our requirements to comply with applicable laws and regulations. Without this coordinated effort, it will be impossible for the Marine Corps to efficiently and effectively acquire its requirements and conserve its limited financial resources.

a. Transferring funds to other agencies should not be the default position of the Marine Corps. Instead, we should make every effort to satisfy the requirement in-house and thereby avoid payment of unnecessary fees. The Marine Corps can only achieve this objective if requirements generators identify their needs and initiate the acquisition and coordination, well in advance, with the comptroller, contracting officer, and legal counsel.

b. Comptrollers must ensure that proper fiscal controls are applied to the funds they have been allocated. Among other things this includes certifying that the appropriate funding is available in terms of purpose, time, and amount.

c. Although the guidance found in references (d) and (e) articulate the roles and responsibilities for all involved in the Non-Economy Act Order process, these procedures also satisfy and will be used for Economy Act Orders.

3. Below are the Approval Matrices for Economy Act and Non-Economy Act assisted acquisitions.

MARINE CORPS ACQUISITION PROCEDURES SUPPLEMENT

Appendix L—Determination and Findings - Economy Act and Non-Economy Act Orders

APPROVAL MATRICES FOR ECONOMY ACT AND NON-ECONOMY ACT ASSISTED ACQUISITIONS

Economy Act Orders MAPS Appendix L Format Required

\$ Amount	Assisting Agency	Approval Authority	Reference
> Micro-purchase threshold - \$5M	DoD Agency	Contracting Officer	FAR 17.500; DFARS 217.500(b); NMCARS 5217.503(c)(i)(A) & (B)
> \$5M	DoD Agency	ADC, I&L(Contracts) SES	NMCARS 5217.503(c)(i)(A) & (B)
> Micro-purchase threshold - \$50M	Non-DoD Agency	ADC, I&L(Contracts) SES	NMCARS 5217.503(c)(i)(B) & 5217.7802
> \$50M - \$500M	Non-DoD Agency	DASN(ALM)	NMCARS 5217.7802
> \$500M	Non-DoD Agency	ASN(RDA)	NMCARS 5217.7802

Non-Economy Act Orders MAPS Appendix L Format Required

\$ Amount	Assisting Agency	Approval Authority	Reference
< SAT	Non-DoD Agency	Comptroller – MAPS Format N/A	ASN(FM&C) memo of 31 Jan 07
> SAT - \$5M	Non-DoD Agency	Contracting Officer	NMCARS 5217.7802
> \$5M - \$50M	Non-DoD Agency	ADC, I&L(Contracts) SES	NMCARS 5217.7802
> \$50M - \$500M	Non-DoD Agency	DASN(ALM)	NMCARS 5217.7802
> \$500M	Non-DoD Agency	ASN(RDA)	NMCARS 5217.7802

4. Below is the Approval Matrix for Direct Acquisitions.

APPROVAL MATRIX FOR DIRECT ACQUISITIONS MAPS Appendix M Content Required

\$ Amount	Direct Acquisition	Approval Authority	Reference
> SAT	Use of any non-DoD contract vehicle by a Marine Corps Contracting Officer	BCM approval official	DON Guidelines for Proper Use of Non-DoD Contracts of 14 Dec 04

5. Reporting Format required by MAPS 17.503(f) is posted on the I&L website at:
<http://hqinet001.hqmc.usmc.mil/i&L/v2/LB/LBProperUse.htm>

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Appendix M—Business Clearance Memorandum Documentation for Direct Acquisitions

Direct acquisitions of supplies and services greater than the Simplified Acquisition Threshold (SAT). Pursuant to paragraph 5 of the DON Guidelines for Proper Use of Non-DoD Contracts (14 December 2004), a direct acquisition includes a task or delivery order placed by a Marine Corps Contracting Officer/Ordering Officer against a contract vehicle established outside of the DoD (e.g., Federal civilian agencies to include their franchise funds). Direct acquisitions include optional use Federal Supply Schedules, Blanket Purchase Agreements issued against Federal Supply Schedules, and other contracts/schedules awarded outside the DoD. Approvals for direct acquisitions will be granted concurrently with the Business Clearance Memorandum (BCM) and will include the certifications set out below. Approval authority for direct acquisitions is the business clearance approval official.

1. Direct Acquisition of Supplies: The Contracting Officer must certify the following in the BCM:
 - a. The action is in the best interest of the Marine Corps in terms of satisfying customer requirements, cost effectiveness, delivery schedule, availability/non-availability of suitable contracts within DoD, contract administration, and any other applicable considerations.
 - b. Funding is available and appropriate for the acquisition.
 - c. Terms, conditions, and/or requirements unique to DoD/DON are incorporated into the action to comply with applicable statutes, regulations and directives.
 - d. Supplies being ordered are within the scope of the basic contract.
 - e. Procedures for direct acquisitions of supplies have been followed.
2. Direct Acquisition of Services: The Contracting Officer must certify the following in the BCM:
 - a. Compliance with approval requirements at Navy-Marine Corps Acquisition Regulation Supplement 5237.170-2.
 - b. The action is in the best interest of the Marine Corps in terms of satisfying customer requirements, cost effectiveness, delivery schedule, availability/non-availability of suitable contracts within DoD, contract administration, and any other applicable considerations.
 - c. Funding is available and appropriate for the acquisition.
 - d. Terms, conditions, and/or requirements unique to DoD/DON are incorporated into the action to comply with applicable statutes, regulations and directives.
 - e. Services being ordered are within the scope of the basic contract.
 - f. Procedures for direct acquisitions of services have been followed.